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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/896,386
Filing Date: June 29, 2001
Appellant(s): BUDAGAVI, MADHUKAR

Carlton Hoel
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/16/07 appealing from the Office action mailed 1/16/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Rhee (6,421,387).

Rhee, in Figures 1 and 4-6, discloses methods and systems for forward error correction based loss recovery for interactive video transmission that is the same controller and method for motion compensation video as specified in claims 1-3 and 5 of the present invention, comprising (a) assessing parameters (e.g. Fig. 6, k data packets and timer 602) of a packetized transmission channel (e.g. Internet); (b) assessing sizes (e.g. PTDD, col. 4, lines 31-65) of intra-coded frames (i.e. periodic I frames) and predictively-coded frames P for an input video (Fig. 1); setting the rate of intra-coded frames and the rate of predictively-coded frames by maximizing a probability of correct frame reconstruction (e.g. RESCU) using the results of steps (a) and (b), wherein the probability of correct frame reconstruction (i.e. FEC) includes a rate of repeated transmission of predictively-coded frames (col. 4, line 65 to col. 5, line 10).

With respect to claim 3, Rhee also discloses packet loss rate over the Internet (see Abstract).

(10) Response to Argument

Appellant argues that claim 1 specifies the requirement to use transmission channel conditions to determine the coding of the video frames. However, a recitation that "adjust the video coding" as an I versus the rate of encoding the frame as a P-frame is not found in Appellant's claim 1, as illustrated in Figure 1 of Appellant's Drawings.

Without such specific limitation included in the claims, Examiner maintains that the invention of Rhee is consistent with Appellant's disclosure in its broadest sense where the rate of motion compensating the periodic frames in a video may be either predetermined or re-adjusted and transmitted in packets according to the transmission channel conditions.

One possible interpretation of Appellant's claim 1 requires a method of encoding video containing I and P frames, comprising two steps:

- (1) for one or more I frames, assess the periodic rate of the encoded packets;
- and
- (2) encode the adjusted packets at a second periodic rate different from the first rate.

Under this interpretation, Rhee discloses an encoder 600 for encoding one or more I frames of the video signal in at least two different rates (i.e. adjusted Temporal Dependency Distance TDD). The packets that are encoded in Encoder 600 are at a rate different from that of the packets that are encoded previously as k data packets (i.e. Fig. 6, k packets vs. n-k FEC packet).

Another possible interpretation of Appellant's claim 1 that is also consistent with Appellant's Specification specifies a method of encoding I frames of a video signal, comprising two processes:

- (1) encode at least one periodic frame of the video at a first rate; and
- (2) encode a second periodic frame of the video at a second rate that is different from the first rate.

Again, column 4 of Rhee also anticipates such alternative interpretation by disclosing adjustable TDD for performing different I frame encoding rates. Encoder 600 encodes at least one periodic frame of the k packets at one rate; and at least one other periodic frames of the n-k FEC data is encoded at a rate that is different from the k packet rate (e.g. col. 10, lines 51-56).

In conclusion, Examiner respectfully submits that Appellant's argument regarding independent claim 1 that the encoding rates must be adjusted according to the transmission channel conditions is not necessarily limited to Appellant's only interpretation.

Examiner acknowledges that Rhee may not describe a method identical to that disclosed by appellants. However, claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541, 550 (CCPA 1969). In addition, the law of anticipation does not require that a reference "teach" what an appellant's disclosure teaches. Assuming that reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983).

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

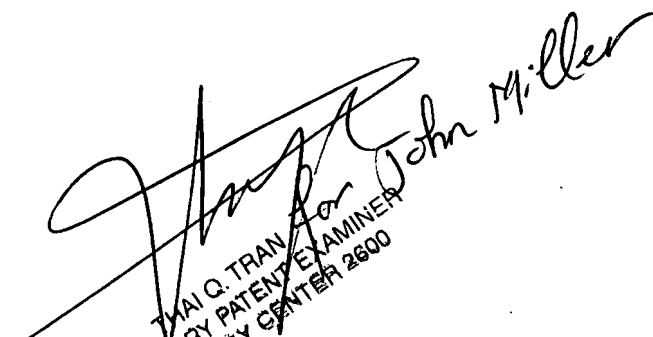

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